



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

REALTIME DATA, LLC d/b/a IXO,	:	X
Plaintiff,	:	11 Civ. 6696 (KBF)
	:	11 Civ. 6701 (KBF)
	:	11 Civ. 6704 (KBF)
-v-	:	
MORGAN STANLEY, et al.,	:	
	:	
Defendants.	:	
REALTIME DATA, LLC d/b/a IXO,	:	X
Plaintiff,	:	11 Civ. 6697 (KBF)
	:	11 Civ. 6699 (KBF)
	:	11 Civ. 6702 (KBF)
-v-	:	
CME GROUP INC., et al.	:	
	:	
Defendants.	:	
REALTIME DATA, LLC d/b/a IXO,	:	X
Plaintiff,	:	11 Civ. 6698 (KBF)
	:	11 Civ. 6700 (KBF)
	:	11 Civ. 6703 (KBF)
-v-	:	
THOMSON REUTERS, et al.	:	
	:	
Defendants.	:	

KATHERINE B. FORREST, District Judge:

The Court has now reviewed in camera a sufficient number of the documents it had requested from Realtime Data, LLC ("Realtime") to have some concern. The Court ORDERS as follows:

1. A partner(s) from McKool should review all of the documents on the privilege log and certify that, following his or her review, he or she believes that

whatever documents remain following the re-review meet the legal definition of what is in fact "privileged" or "work product." That re-review should be conducted with the Court's view as to what appears not to constitute privileged documents/work product (or at least needs some real explanation as to how privilege attaches) as set forth below.

2. The re-review referred to in paragraph 1 supra should occur, all non-relevant documents should be removed, and all relevant, non-privileged documents should be produced no later than September 17, 2012. Such partner certification referred to in paragraph 1 supra should be filed with the Court no later than September 17, 2012.
3. Many documents on the log are certainly not privileged--indeed, they contain no real content apart from scheduling phone calls or meetings. Those documents are not requesting or conveying legal advice or reflective of any mental impressions; the Court is hard pressed to understand why those types of documents are even relevant. Examples of such documents are 17, 18, 23, 24, 27, 28, 29, 57, and 1271. Other documents may lack relevance for similar reasons: see, e.g., 85, 86, 94 (a repeat), 102, 103, 104 (also a repeat), 105, 184, 186. A McKool partner(s) should review documents for relevance first, and then determine if what is left may or may not be privileged. The Court suspects many documents will come off the log based on lack of relevance.
4. A number of documents do not appear to be privileged on their face, including 31, 49, 53, 54, 58, 79, 128, 129, 130, 131, 411, 450, 531, 533, portions of 542, 543, 808, 810, 1026, 1095, 1106, 1137 (if sent outside or received from a third party), 1139, 1143, 1161 (all or part of), 1164, 1166, 1171, 1194, 1266, 9194, 9227, 9540, 9596, 9781.

5. To the extent Realtime continues to withhold any of the documents noted by the Court as "likely not privileged," it should provide a letter to the Court explaining the basis for its assertions. Such letter should be submitted to the Court no later than September 20, 2012.

SO ORDERED:

Dated: New York, New York
August 30, 2012

K. B. Forrest

KATHERINE B. FORREST
United States District Judge